

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF MISSISSIPPI
GREENVILLE DIVISION

UNITED STATES OF AMERICA

PLAINTIFF

VS.

NO. 4:17-CR-131-1

SCOTT E. NELSON

DEFENDANT

WAIVER OF INDICTMENT HEARING

BEFORE HONORABLE DEBRA M. BROWN
UNITED STATES DISTRICT JUDGE

Greenville, Mississippi
August 20, 2019

APPEARANCES:

For the Government: CLAYTON A. DABBS, ESQUIRE
KIMBERLY M. HAMPTON, ESQUIRE
U.S. Attorney's Office
900 Jefferson Avenue
Oxford, Mississippi 38655

For the Defendant: PHILIP MANSOUR, JR., ESQUIRE
Mansour & Adams
P. O. Box 1406
Greenville, Mississippi 38702-1406

Court Reporter: BRENDA D. BLACKBURN, RPR, CCR #1087
Federal Official Court Reporter
305 Main Street
Greenville, Mississippi 38701

1 (Convened: 2:59 p.m.)

2 **THE COURT:** Good afternoon. Be seated.

3 Please call our case.

4 **COURTROOM DEPUTY:** The Court calls case number
5 4:17-CR-131-1, United States of America versus Scott E.
6 Nelson.

7 **THE COURT:** This is a Waiver of Indictment Hearing
8 as to Information. For the record, who is here on behalf on
9 the government?

10 **MR. DABBS:** Clay Dabbs, Your Honor.

11 **MS. HAMPTON:** And Kimberly Hampton, Your Honor.

12 **THE COURT:** And who is here as counsel for the
13 defendant?

14 **MR. MANSOUR:** Philip Mansour, Jr., Your Honor.

15 **THE COURT:** And our representative from probation?

16 **PROBATION OFFICER:** Blaine Anderson, Your Honor.

17 **THE COURT:** Are you all prepared to proceed?

18 **MR. DABBS:** Yes, Your Honor.

19 **MR. MANSOUR:** Yes.

20 **THE COURT:** You may come forward then.

21 (Parties Complied.)

22 **THE COURT:** Would you please administer the oath to
23 the defendant.

24 **COURTROOM DEPUTY:** Raise your right hand.

25 (Oath administered by courtroom deputy.)

1 **THE COURT:** Sir, what is your full legal name?

2 **THE DEFENDANT:** Oh, mine? I'm sorry. Scott Elbert
3 Thompson Nelson.

4 **THE COURT:** Okay, Elbert is E-l-b-e-r-t?

5 **THE DEFENDANT:** That's correct. Yes.

6 **THE COURT:** Mr. Nelson, do you understand that you
7 are now under oath and if you answer any question I ask you
8 falsely or untruthfully, that false or untruthful answer may
9 be used against you in a prosecution for perjury or making a
10 false statement?

11 **THE DEFENDANT:** Yes, Your Honor.

12 **THE COURT:** Do you understand that you have the
13 right to remain silent and not answer any of the Court's
14 questions?

15 **THE DEFENDANT:** Yes, Your Honor.

16 **THE COURT:** Is it correct that you now wish to
17 plead guilty to the charges in the Information pursuant to a
18 written plea agreement with the government?

19 **THE DEFENDANT:** Yes, Your Honor.

20 **THE COURT:** There are a number of questions then
21 that I must ask you to make sure that you're fully informed
22 of your rights and that you understand your rights in this
23 proceeding. If you do not understand any question I ask,
24 let me know and I will clarify it for you. You may speak
25 with your attorney at any point during this proceeding, even

1 if there is a question posed. Do you understand?

2 **THE DEFENDANT:** I do. Yes, sir, Your Honor.

3 **THE COURT:** What is your current age?

4 **THE DEFENDANT:** 55.

5 **THE COURT:** How many years of school have you
6 completed?

7 **THE DEFENDANT:** I finished four years of college
8 and four years of medical school.

9 **THE COURT:** Now, are you now under the influence of
10 any medicine, drugs, or alcohol?

11 **THE DEFENDANT:** No.

12 **THE COURT:** Is there any prescription that you are
13 required to take that you did not take in the past 24 to 48
14 hours?

15 **THE DEFENDANT:** No, Your Honor.

16 **THE COURT:** Have you ever been treated or
17 hospitalized for an addiction to drugs?

18 **THE DEFENDANT:** No, Your Honor.

19 **THE COURT:** Have you ever been treated for a mental
20 illness?

21 **THE DEFENDANT:** No, Your Honor.

22 **THE COURT:** And do you suffer from any mental
23 disability or physical condition that would prevent you from
24 hearing everything that happens during this proceeding today
25 or understanding the nature of the charges against you or

1 the consequences of the guilty plea?

2 **THE DEFENDANT:** No, Your Honor.

3 **THE COURT:** Based on Mr. Nelson's responses, the
4 Court finds that he is competent to waive indictment and
5 plea to the Information in this case.

6 Mr. Nelson, you have a constitutional right to be
7 charged by an indictment by a grand jury, but you can waive
8 that right and consent to being charged in an Information
9 signed by the United States Attorney. If you do not waive
10 indictment, you may not be charged with a felony until a
11 grand jury finds by return of the indictment that there is
12 probable cause to believe that a crime has been committed
13 and that you committed that crime. Here, felony charges
14 have been brought against you in an Information instead of
15 an indictment. If you choose not to waive indictment, the
16 government may present the case to a grand jury and ask it
17 to indict you. Now, a grand jury is composed of at least
18 16, and not more than 23 persons, and at least 12 Grand
19 Jurors must find that there is probable cause to believe you
20 committed the crime with which you are charged before you
21 may be indicted. Now, of course, the grand jury may or may
22 not indict you. But if you choose to waive indictment by
23 the grand jury, the case will proceed against you on the
24 Information just as though you had been indicted. So some
25 questions for you in that regard.

1 Do you understand your right to indictment by a
2 grand jury?

3 **THE DEFENDANT:** I do. Yes, Your Honor.

4 **THE COURT:** Do you understand that you have not
5 been indicted on the charges in the Information in this case
6 and that the only thing that has happened is that the United
7 States Attorney has signed an affidavit charging you with
8 the crime in the Information?

9 **THE DEFENDANT:** I do, Your Honor.

10 **THE COURT:** Do you understand that a grand jury has
11 not heard any evidence and decided whether you should be
12 brought to trial for the charges in the Information, and
13 that you have a right to a grand jury to consider the
14 evidence against you?

15 **THE DEFENDANT:** I do, Your Honor.

16 **THE COURT:** Now, have you specifically discussed
17 waiving your right to an indictment by a grand jury with
18 your attorney?

19 **THE DEFENDANT:** Briefly, we have, Your Honor.

20 **THE COURT:** Have you discussed it with your
21 attorney to your satisfaction such that you still wish to
22 plead and waive indictment to --

23 **THE DEFENDANT:** I do wish, yes.

24 **THE COURT:** -- to the Information?

25 **THE DEFENDANT:** I do, Your Honor.

1 **THE COURT:** Okay. So, in fact, while we're on that
2 topic then, let me ask you these questions that I usually
3 reserve for the end. Are you satisfied with your attorney's
4 representation of you?

5 **THE DEFENDANT:** Yes, I am, Your Honor.

6 **THE COURT:** Do you believe your attorney has
7 represented your best interest in this case?

8 **THE DEFENDANT:** Yes, Your Honor.

9 **THE COURT:** And has your attorney answered any
10 questions that you have about your case, including waiving
11 indictment and pleading guilty to your full satisfaction?

12 **THE DEFENDANT:** He has, Your Honor.

13 **THE COURT:** And have any threats or promises been
14 made to induce you to waive indictment?

15 **THE DEFENDANT:** None, Your Honor.

16 **THE COURT:** Then the pivotal question is whether or
17 not you wish to waive your right to indictment by a grand
18 jury?

19 **THE DEFENDANT:** I do, Your Honor.

20 **THE COURT:** Okay, is there a written waiver of
21 indictment?

22 (Counsel and defendant conferring.)

23 **THE DEFENDANT:** If I might ask the Court one
24 question. Should I do "Scott E. T. Nelson," my full legal
25 name?

1 **THE COURT:** However you would like to sign it.

2 **THE DEFENDANT:** Okay.

3 **THE COURT:** So long as we know that it is you.

4 **THE DEFENDANT:** Okay.

5 **THE COURT:** And we're all witnessing you sign it,
6 and your counsel will have to sign it as well.

7 **MR. MANSOUR:** May I approach, Your Honor?

8 **THE COURT:** You may.

9 (Mr. Mansour handed documents to Court.)

10 **THE COURT:** While I'm reviewing the written waiver
11 of indictment, I see -- and saw Mr. Nelson actually sign it
12 here in court, and I see that -- his signature of his
13 attorney as well. So the Court is going to sign the waiver.

14 The Court does find that the waiver is knowing and
15 voluntarily made by the defendant, and is accepted by the
16 Court, and the waiver will be filed.

17 Do we have a copy of the Information, Mr. Dabbs?

18 **MR. DABBS:** Yes, Your Honor.

19 **THE COURT:** Would you bring that forward.

20 (Counsel complied.)

21 **THE COURT:** All right, the Information will be
22 filed as well.

23 Now, Mr. Nelson, can you confirm for me that you
24 received a copy of the Information and reviewed the charges
25 against it?

1 **THE DEFENDANT:** I did, your Honor.

2 **THE COURT:** -- against you contained in that
3 information?

4 **THE DEFENDANT:** (Nodding.)

5 **THE COURT:** The Information contains one count.
6 And that count, Count 1, charges you with concealing the
7 commission of a felony in violation of Title 18, United
8 States Code, §4.

9 Would you like to have the Information read or is
10 reading waived?

11 **THE DEFENDANT:** We -- we have read it. I'm fine
12 with proceeding.

13 **THE COURT:** So you would like to waive reading?

14 **THE DEFENDANT:** Yes, ma'am. Yes, Your Honor.

15 **THE COURT:** Are you fully aware of what you're
16 charged with in the Information?

17 **THE DEFENDANT:** I am, Your Honor.

18 **THE COURT:** And have you discussed the charges in
19 the Information with your attorney?

20 **THE DEFENDANT:** I have.

21 **THE COURT:** Before you could be found guilty of the
22 charges in the Information, the government would have to
23 prove certain elements against you beyond a reasonable
24 doubt.

25 Mr. Dabbs, would you please advise us of the

1 elements.

2 **MR. DABBS:** Yes, Your Honor. The government will
3 have to prove the following elements beyond a reasonable
4 doubt:

5 First, that a federal felony was committed as
6 charged; that is, healthcare fraud in violation of Title 18,
7 United States Code, §1347, which has the following elements:

8 A person knowingly and willfully executed a scheme
9 to defraud Medicare, a healthcare benefit program affecting
10 interstate commerce, and that person acted with specific
11 intent to defraud and use material false and fraudulent
12 representations in connection with the delivery of or
13 payment for healthcare benefits, items, or services.

14 Second, that the defendant had knowledge of the
15 commission of a felony.

16 Third, that the defendant failed to notify an
17 authority as soon as possible. And authority includes a
18 federal judge or some other federal civil or military
19 authority, such as a federal grand jury, Secret Service, or
20 FBI agent.

21 And fourth, that the defendant did an affirmative
22 act as charged to conceal the crime.

23 **THE COURT:** Mr. Nelson, having heard those elements
24 of the proof, do you have any questions about them or the
25 nature of the charges in this case as set forth against you?

1 **THE DEFENDANT:** I do not, Your Honor.

2 **THE COURT:** We will turn next then to the evidence
3 that the government has supporting the charges in the
4 Information, and to the extent if you were indicted by a
5 grand jury that it would be prepared to prove against you if
6 your case proceeded to a trial.

7 Mr. Dabbs, what is the government's evidence?

8 **MR. DABBS:** The government would offer the
9 testimony of law enforcement officers and lay witnesses, and
10 would present both physical and documentary evidence to
11 prove that Scott Nelson committed Misprison of a Felony in
12 violation of Title 18, United States Code, §4.
13 Specifically, Medicare was a federal healthcare -- health
14 insurance program that provided coverage for individuals 65
15 years or older and for certain disabled individuals.
16 Medicare was financed by federal funds from payroll taxes
17 and premiums paid by beneficiaries. Medicare was a
18 healthcare benefit program as defined by Title 18, United
19 States Code, §24(b), and affected interstate commerce.

20 If certain requirements were met, Medicare covered
21 hospice care. To qualify for hospice care, a patient must
22 be certified by a physician as terminally ill with a life
23 expectancy of six months or less, if the terminal condition
24 runs its normal course. At the end of a 90-day enrollment
25 period, a physician may recertify a patient for hospice care

1 if the patient remained terminally ill.

2 Charline Brandon was the actual owner and person
3 primarily responsible for the operation of Haven Hospice and
4 Palliative Care, North Haven Hospice and Palliative Care,
5 and Lion Hospice and Palliative Care. Haven Hospice, North
6 Haven Hospice, and Lion Hospice applied for and received a
7 Medicare provider number and a Medicaid provider number to
8 -- purportedly to provide hospice services in Mississippi.
9 The primary headquarters for Ms. Brandon's hospice
10 operations was in Cleveland, Mississippi. Haven Hospice,
11 North Haven Hospice, and Lion Hospice as purported hospice
12 providers submitted claims and received payments from
13 Medicare. Charline Brandon, through the aforementioned
14 hospices, fraudulently submitted claims to Medicare for
15 hospice services that were not medically necessary, and that
16 were not actually provided to the patient and for patients
17 who had been solicited and recruited by patient recruiters.

18 Dr. Scott Nelson served as a Medical Director for
19 Charline Brandon's hospice operations, among others. In
20 return for his services as a medical director, Brandon paid
21 Dr. Nelson a monthly fee.

22 After being interviewed by Medicare auditors in
23 2013 and again, federal agents in September of 2014,
24 Dr. Nelson knew that Charline Brandon was defrauding
25 Medicare, which is a felony. Dr. Nelson failed to notify

1 authorities as soon as possible when he became aware of the
2 commission of the felony. Dr. Nelson also committed an
3 affirmative act of concealment. For example, after the
4 interviews, Dr. Nelson received some payments from Brandon's
5 hospice operations, and others, in cash instead of a check,
6 the effect of which was to conceal some of the payments that
7 Brandon's hospices made to his clinic. Dr. Nelson
8 specifically admits that he could have notified the
9 authorities without incriminating himself during the
10 investigation and waives any defense related to his
11 constitutional rights against self-incrimination.

12 The government would ask the Court to take judicial
13 notice that Bolivar County is in the Northern Judicial
14 District of Mississippi.

15 **THE COURT:** It is so noted.

16 Mr. Nelson, having heard the government's evidence
17 against you, do you understand everything that the
18 government's counsel said?

19 **THE DEFENDANT:** I do, Your Honor.

20 **THE COURT:** Now, is everything that the
21 government's counsel said about you and about your conduct
22 true and correct?

23 **THE DEFENDANT:** I do. It is, Your Honor.

24 **THE COURT:** Do you wish to plead guilty to Count 1
25 of the Information because you are indeed guilty?

1 **THE DEFENDANT:** I do, Your Honor.

2 **THE COURT:** The Court finds then that there is an
3 actual basis for Mr. Nelson to plead guilty to the charges
4 in the Information.

5 I next will advise you of the maximum possible
6 penalties applicable to your case. And they are
7 imprisonment for not more than three years, supervised
8 release after imprisonment for not more than one year, a
9 fine of not more than \$250,000, restitution as appropriate,
10 and a special assessment of \$100.

11 To the extent you plead to the information here
12 today and the Court accepts your plea, the Court is going to
13 sentence you. If the Court sentences you to serve time in
14 prison, do you understand that you may be subject to
15 supervised release for a period of time after you've been
16 released from prison?

17 **THE DEFENDANT:** I do, Your Honor.

18 **THE COURT:** Do you understand that if you violate
19 one or more of the conditions of supervised release that you
20 may be returned to prison for all or part of the supervised
21 release period?

22 **THE DEFENDANT:** I do, Your Honor.

23 **THE COURT:** Do you have any questions at all about
24 any of the penalties that the Court has just discussed?

25 **THE DEFENDANT:** None at this time, Your Honor.

1 **THE COURT:** Regarding the plea agreement,
2 Mr. Dabbs, would you please state its substance for the
3 record.

4 **MR. DABBS:** Yes, your Honor.

5 The defendants -- the defendant agrees to plead
6 guilty under oath to Count 1 of an Information which charges
7 that the defendant, Scott E. Nelson, having knowledge of the
8 commission of a felony cognizable by a court of the United
9 States did conceal the same and did not as soon as possible
10 make known to the same, to some judge or other person, civil
11 or military authority under the United States, in violation
12 of Title 18, United States Code, §4, which carries the
13 maximum penalties as the Court has just described.

14 The United States agrees not to charge the
15 defendant with any other offenses arising from or related to
16 the above charge and agrees to dismiss all other charges in
17 the indictment upon the conclusion of sentencing on Count 1
18 of the Information.

19 The defendant understands that the Court may order
20 restitution in accordance with the provisions of Title 18,
21 United States Code, §3663 for all offenses committed, and
22 specifically agrees that restitution is not limited to the
23 count of conviction.

24 This agreement does not bind any prosecuting
25 authority of any state or any other federal district, nor

1 does it bind the Attorney General of the United States with
2 regard to any matter criminal or civil involving federal tax
3 laws. Except for prosecutorial misconduct and ineffective
4 assistance of counsel relating to the validity of the waiver
5 of the appeal and the validity of the guilty plea itself,
6 the defendant hereby expressly waives any and all rights to
7 appeal the conviction and/or sentence imposed in this case,
8 and the manner in which sentence was imposed on any ground
9 whatsoever including but not limited to the grounds set
10 forth in Title 18, United States Code, §3742. Except for
11 prosecutorial misconduct and ineffective assistance of
12 counsel relating to the validity of the waiver of the appeal
13 and the validity of the guilty plea itself, the defendant
14 also hereby expressly waives all rights to contest or
15 collaterally attack the conviction and/or sentence and the
16 manner in which the sentence was imposed in any
17 post-conviction proceeding, including but not limited to a
18 motion brought pursuant to Title 28, United States Code,
19 §2255. The defendant waives these rights in exchange for
20 the concessions and recommendations made by the United
21 States in this plea agreement. If the defendant violates
22 this agreement, all statements made pursuant hereto will be
23 admissible against the defendant, who hereby waives the
24 provisions of Rule 11(f) of the Federal Rules of Criminal
25 Procedure, and Rule 410 of the Federal Rules of Evidence.

1 Apart from being advised of the applicability of
2 the U.S. Sentencing Guidelines, and other than as set forth
3 elsewhere in the plea documents, no promise or
4 representation whatsoever has been made to the defendant as
5 to what punishment the Court might impose if it accepts the
6 plea of guilty.

7 Furthermore, no promise or representation
8 whatsoever has been made to the defendant as to what
9 consequences the defendant may face related to his state
10 medical license, his billing privileges with Medicaid and/or
11 Medicare, and his prescription privileges with the Drug
12 Enforcement Administration, as well as any other licenses or
13 privileges associated with the defendant's ability to
14 practice medicine as a licensed medical doctor.

15 The defendant's agreement is knowing, free, and
16 voluntary, and not the product of force, threat, or
17 coercion. The defendant is pleading guilty because the
18 defendant is, in fact, guilty.

19 Your Honor, there's a provision in the plea
20 supplement as to the loss.

21 **THE COURT:** Mr. Nelson, did you understand
22 everything that the government's counsel just stated?

23 **THE DEFENDANT:** I did, Your Honor.

24 **THE COURT:** Did he accurately state the substance
25 of the plea agreement as you understand its terms to be?

1 **THE DEFENDANT:** He did, Your Honor.

2 **THE COURT:** I presume that you have seen a copy of
3 the plea documents. If you have a copy of them there with
4 you now, would you please confirm that the signature that is
5 reflected on both the plea agreement and the supplement is
6 indeed where you signed?

7 **THE DEFENDANT:** It is, Your Honor.

8 **THE COURT:** And did you discuss the contents of the
9 plea documents with your attorney before you signed them?

10 **THE DEFENDANT:** I did.

11 **THE COURT:** Mr. Mansour, can you confirm that you
12 did discuss the terms of the plea documents with Mr. Nelson
13 before he signed the plea documents as well as the evidence
14 that the government has relative to the case?

15 **MR. MANSOUR:** I did, Your Honor, as well as the
16 plea supplement to the plea agreement.

17 **THE COURT:** Now, with regard to that provision in
18 the plea supplement as to loss that the government's counsel
19 mentioned, do you understand that if the Court decides to
20 accept the plea agreement to the extent that I reject that
21 provision, that I will give you the opportunity to withdraw
22 your guilty plea, but if you choose not to withdraw that
23 plea, I may impose a more severe sentence without being
24 bound by that provision?

25 **THE DEFENDANT:** That is my understanding, Your

1 Honor. Yes.

2 **THE COURT:** Then the government's counsel also
3 mentioned your waiver of rights to appeal. I know it's part
4 of the plea agreement. But I want to make sure that you
5 understand that you waive all rights to appeal or
6 collaterally attack your conviction if you plead here today
7 to the Information with the limited exceptions of
8 prosecutorial misconduct and ineffective assistance of
9 counsel?

10 **THE DEFENDANT:** I understand, Your Honor.

11 **THE COURT:** Mr. Dabbs, would you provide the
12 original copy of the plea documents?

13 **MR. DABBS:** Yes, Your Honor.

14 (Counsel Complied.)

15 **THE COURT:** The plea agreement will be filed; the
16 plea supplement filed under seal.

17 Mr. Nelson, do you understand that the offense to
18 which you wish to plead guilty is a felony and that if you
19 plead guilty and the Court accepts your plea, you will be
20 adjudged guilty of that felony and that that adjudication
21 may affect your eligibility to vote, hold public office, sit
22 on a jury, or possess any kind of firearm whatsoever?

23 **THE DEFENDANT:** I do, Your Honor.

24 **THE COURT:** To the extent the Court will sentence
25 you, it will be guided by the Sentencing Guidelines

1 Commission's -- I mean the Sentencing Commission's
2 Guidelines. Can you tell me whether or not you and your
3 attorney have discussed how the guidelines might affect your
4 case?

5 **THE DEFENDANT:** I'm sorry. Could you repeat that,
6 Your Honor?

7 **THE COURT:** To the extent the Court will sentence
8 you, the Court will be guided by the sentencing guidelines
9 implemented by the United States Sentencing Commission. Can
10 you confirm that you and your attorney have discussed how
11 those guidelines might apply to your case?

12 **THE DEFENDANT:** We have, Your Honor.

13 **THE COURT:** Do you understand that those guidelines
14 are only advisory, which means the Court is not bound to
15 follow them at all?

16 **THE DEFENDANT:** I do, Your Honor.

17 **THE COURT:** Do you understand that the Court will
18 not be able to determine your guideline sentence until after
19 a presentence report has been prepared and you've had the
20 opportunity to review it as well as counsel for the
21 government, and your counsel, and determine whether or not
22 you have any objections to anything in there, whether it's
23 the application of the guidelines recommended by the
24 probation officer or any facts reported?

25 **THE DEFENDANT:** I do, Your Honor.

1 **THE COURT:** Do you understand that the sentence
2 imposed may be different from any estimate that your
3 attorney may have provided you?

4 **THE DEFENDANT:** I do, Your Honor.

5 **THE COURT:** Do you understand that after your
6 guideline range has been determined, the Court has the
7 authority in some circumstances to depart upward or downward
8 from the guideline sentence, and that means simply that the
9 Court may impose a more severe sentence or a less severe
10 sentence than what is called for by the guidelines?

11 **THE DEFENDANT:** I do, Your Honor.

12 **THE COURT:** Do you understand that regardless of
13 the guidelines range, the Court has the authority to
14 sentence you up to the maximum time allowed by law, and
15 those maximums are what the Court discussed earlier?

16 **THE DEFENDANT:** I do, Your Honor.

17 **THE COURT:** Do you understand that if you are
18 sentenced to serve time in prison, you will not be released
19 on parole because parole has been abolished in this federal
20 court?

21 **THE DEFENDANT:** I do, Your Honor.

22 **THE COURT:** The next set of questions that I'm
23 going to ask you concern your constitutional rights, and in
24 particular your waiver of those rights if you plead guilty
25 here today.

1 First, do you understand you have the right to
2 plead not guilty?

3 **THE DEFENDANT:** I do, Your Honor.

4 **THE COURT:** Do you understand that under the
5 Constitution and the laws of this country, you are entitled
6 to a speedy and public trial by jury on the charges against
7 you?

8 **THE DEFENDANT:** I do, Your Honor.

9 **THE COURT:** Do you understand that if you had a
10 trial, you would be presumed innocent of the charges and the
11 government would have to prove your guilt beyond a
12 reasonable doubt before you could be found guilty?

13 **THE DEFENDANT:** I do, Your Honor.

14 **THE COURT:** Do you understand that if you had a
15 trial, the government's witnesses would have to come into
16 court and testify in your presence, that your attorney could
17 cross-examine the government's witnesses and your attorney
18 could call witnesses to testify on your behalf?

19 **THE DEFENDANT:** I do, Your Honor.

20 **THE COURT:** Do you understand that if you had a
21 trial, you would have the right to require that witnesses
22 come to court and testify?

23 **THE DEFENDANT:** I do, Your Honor.

24 **THE COURT:** Are you aware as well that if you wish
25 to testify in your own defense, you would have the right to

1 do so. But if you chose not to testify in your own defense,
2 the fact that you did not testify could not be used against
3 you?

4 **THE DEFENDANT:** I do, Your Honor.

5 **THE COURT:** Do you understand that if you had a
6 trial and were convicted, you would have the right to appeal
7 your conviction and your sentence?

8 **THE DEFENDANT:** I do, Your Honor.

9 **THE COURT:** If you plead guilty here today,
10 Mr. Nelson, and the Court accepts your plea, based upon your
11 responses, can you confirm for me that you understand that
12 you're going to waive your right to trial by jury and all of
13 the other constitutional rights that I just discussed with
14 you?

15 **THE DEFENDANT:** I do, Your Honor.

16 **THE COURT:** So also confirm for me then that you
17 understand that if you plead guilty and the Court accepts
18 your plea, there's not going to be a trial; I'm going to
19 enter a judgment of guilty, and then I'm going to sentence
20 you after I've considered information in the presentence
21 report.

22 **THE DEFENDANT:** I do, Your Honor.

23 **THE COURT:** Do you have any questions about your
24 rights, or your waiver of your constitutional rights?

25 **THE DEFENDANT:** I do not.

1 **THE COURT:** Has your attorney specifically
2 discussed giving up these constitutional rights with you?

3 **THE DEFENDANT:** He has.

4 **THE COURT:** Is it still your wish then to plead
5 guilty to the information?

6 **THE DEFENDANT:** Yes, Your Honor.

7 **THE COURT:** In the case of the United States versus
8 Scott Nelson, Mr. Nelson, how do you plead to Count 1 of the
9 Information?

10 **THE DEFENDANT:** Guilty.

11 **THE COURT:** It is the finding of this Court then in
12 the case of the United States versus Scott Nelson that,
13 Mr. Nelson, you're fully competent and capable of entering
14 an informed plea, that you're aware of the nature of the
15 charges in the Information and the consequences of the
16 guilty plea and that your guilty plea is knowing and
17 voluntary and supported by an independent basis and fact
18 containing each of the essential elements of the offense,
19 not the result of force, threats, or promises.

20 The Court therefore accepts the guilty plea.

21 The Court will defer acceptance of the plea
22 agreement, however, until after the presentence report has
23 been prepared.

24 Now, with respect to that presentence report, the
25 probation officer will question you for purposes of

1 obtaining information for that report. I encourage you to
2 have your counsel present while you are being questioned by
3 the probation officer. I also encourage you to be as honest
4 and forthright in responding to those questions because your
5 responses will be incorporated into that report, and I read
6 every single word in determining what I believe is an
7 appropriate sentence for you in this case.

8 Now, after the presentence report has been prepared
9 -- and I mentioned this earlier -- you will have the
10 opportunity to review it with your attorney. If you have
11 any objections to anything reported in that presentence
12 report, whether it's facts, or again, the application of the
13 presentence -- of the sentencings guidelines as recommended
14 by the probation officer, your attorney will file those
15 objections on your behalf. If they are not resolved before
16 your sentencing hearing -- and I'll give you a date for that
17 in a minute -- I will take them up no later than your
18 sentencing hearing.

19 You will have the opportunity to speak on your own
20 behalf at your sentencing as well as your attorney.

21 I'm going to set your sentencing for December 3rd,
22 2019. That is a Tuesday.

23 Does anyone have a conflict with that date that
24 they are aware of at this point?

25 **MR. MANSOUR:** May I check real quick, Your Honor?

1 **THE COURT:** Yes.

2 Mr. Dabbs?

3 **MR. DABBS:** No conflict.

4 **MR. MANSOUR:** None, Your Honor.

5 **THE COURT:** Then sentencing will be set for
6 December 3rd, 2019. I'm going to enter an order with that
7 sentencing date. There will also be certain deadlines that
8 will need to be met before that sentencing hearing.

9 One thing that you have the option of doing that
10 I'm not going to set a deadline for is submitting reference
11 letters on your behalf, essentially character statements
12 from those who you think have something to say that you want
13 the Court to be aware of before you are sentenced. I do
14 read those reference letters as closely as I read the
15 presentence report. Sometimes I find that it -- they
16 present another side of you that may not be reflected in the
17 presentence report. Sometimes they emphasize things that
18 are in the presentence report. But it is your option. You
19 are not required to submit them if you choose not to do so.
20 And they can be from anyone, friend, family, church members,
21 people in the community. Anyone, again, that you think
22 would have something positive, or just anything that they
23 want to -- me to consider before I sentence you.

24 If you are going to submit reference letters, I
25 urge you to try to get them done and ask those persons to

1 write them as soon as possible. When they are completed,
2 have them provided to your attorney or have those persons
3 who are writing them provide them to your attorney so your
4 attorney can file them on the docket, to make sure that I
5 have enough time before your sentencing hearing to review
6 them as well as the presentence report.

7 I think the final thing we need to do is address
8 where we are with respect to your bond. I do understand
9 that you were released from custody after your arrest on a
10 \$10,000 secured bond. I have not been advised that you have
11 violated any of the conditions of your release of the bond.
12 So I'm going to allow you to remain out of custody pending
13 your sentencing hearing. But keep in mind that the same
14 conditions of your bond will apply. Make sure that you are
15 familiar with them and that you continue to comply with
16 them. If I do receive word for any reason that you have not
17 complied with any condition of your bond, then I will see
18 you sooner than your sentencing hearing and we will discuss
19 whether or not you should be taken into custody. So make
20 sure that you're aware of the conditions and continue to
21 comply with them.

22 That is all the Court has. Is there anything that
23 we need to take up before we adjourn?

24 **MR. MANSOUR:** We have nothing further, Your Honor.

25 **MR. DABBS:** Nothing from the government, Your

1 Honor.

2 **THE COURT:** Okay. That being the case then,
3 Mr. Nelson, I will see you on December 3rd for your
4 sentencing hearing. Hopefully, not before. And this matter
5 is adjourned.

6 **MR. MANSOUR:** Thank you, Your Honor.

7 **MR. DABBS:** Thank you, Your Honor.

8 (Recessed: 3:30 p.m.)
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CERTIFICATE

I, Brenda D. Blackburn, Federal Official Court Reporter,
in and for the United States District Court for the Northern
District of Mississippi, do hereby certify that pursuant to
Section 753, Title 28, United States Code, that the
foregoing 28 pages are a true and correct transcript of the
stenographically reported proceedings held in the
above-entitled matter and that the transcript page format is
in conformance with the regulations of the Judicial
Conference of the United States.

Witness my hand, this 6th day of December, 2019.

/s/Brenda D. Blackburn

BRENDA D. BLACKBURN, RPR, CCR NO. 1087
Federal Official Court Reporter